State of Wisconsin
2011 – 2012 LEGISLATURE

LRB–1520/P1
CMH:...:ph

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

AN ACT ...; **relating to:** relating to:phasing in a reduction of individual income tax rates and eliminating the top bracket; relating to:repealing indexing provisions under the homestead tax credit; relating to:creating an individual income tax deferral for certain long–term capital gains that are reinvested in a qualified Wisconsin business; relating to:creating a procedure for certain taxpayers to exclude from income certain capital gains from the sale of Wisconsin–sourced assets; relating to:the budget; relating to:the budget; relating to:changing the percentages of the federal credit that may be claimed under the earned income tax credit; relating to:the budget; relating to:the budget; relating to:the budget; relating to:the budget; relating to:the budget; relating to:the budget; relating to:the budget; relating to:the budget; relating to:the budget; relating to:the budget

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Analysis by the Legislative Reference Bureau

***** ANALYSIS FROM –1357/2 *****

TAXATION

INCOME TAXATION

Under current law, there are five income tax brackets for single individuals, certain fiduciaries, heads of households, and married persons (tax filers). The brackets are indexed for inflation. The rate of taxation under current law for the lowest bracket for tax filers is 4.6 percent of taxable income; the rate for the second bracket is 6.15 percent; the rate for the third bracket is 6.5 percent; the rate for the fourth bracket is 6.75 percent; and the rate for the highest bracket, which was created in the 2009–11 biennial budget act, 2009 Wisconsin Act 28, is 7.75 percent.

With regard to taxable year 2010, for single individuals, certain fiduciaries, and heads of households, for example, the lowest bracket applies to taxable income of over $0 up to $10,070; the second bracket applies to taxable income over $10,070 up to $20,130; the third bracket applies to taxable income over $20,130 up to $151,000; the fourth bracket applies to taxable income over $151,000 up to $221,660; and the fifth, or top, bracket applies to taxable income over $221,660.

For taxable years beginning on January 1, 2012, this bill eliminates the fifth bracket. For taxable year 2012, with regard to single individuals, certain fiduciaries, and heads of households, for example, the fourth, or top, bracket of 6.75 percent will apply to taxable income over approximately $151,000, as indexed for inflation. Also under the bill, beginning in taxable year 2013, the rates of taxation are reduced over a five–year period. The total rate reduction in each bracket is approximately 2.5 percent at the end of the five–year phase in period.

Under the bill, the tax rate in the lowest bracket is reduced from 4.60 percent in 2012 to 4.58 percent in 2013; 4.56 percent in 2014; 4.54 percent in 2015; 4.52 percent in 2016; and 4.50 percent in 2017 and beyond. The rate in the fourth, or top, bracket is reduced from 6.75 percent in 2012 to 6.72 percent in 2013; 6.69 percent in 2014; 6.66 percent in 2015; 6.63 percent in 2016; and 6.60 percent in 2017 and beyond. The brackets will continue to be indexed for inflation as is the case under current law.

***** ANALYSIS FROM –1148/1 *****

Under current law, for claims filed in 2011, based on property taxes or rent constituting property taxes from the prior year, the homestead tax credit threshold income is $8,060, the maximum property taxes, or rent constituting property taxes, that a claimant may use in calculating his or her credit are $1,460, and the maximum household income is $24,680. Under the current law formula, as a claimant's income exceeds $8,060, the credit is phased out until the credit equals zero when income exceeds $24,680. Also under the formula, if the household income is $8,060 or less, the credit is 80 percent of the property taxes accrued or rent constituting property taxes accrued. Using the formula, the credit that may be claimed ranges from $10 to $1,168. Also under current law, for claims filed in 2011 and thereafter, the maximum household income, maximum property taxes, and maximum household income are all indexed for inflation.

Under this bill, the indexing provisions are repealed and, for claims filed in 2011 and thereafter, the threshold income is $8,060, the maximum property taxes, or rent constituting property taxes, that a claimant may use in calculating his or her credit are $1,460, and the maximum household income is $24,680.

***** ANALYSIS FROM –1409/P2 *****

Under current law, as created in the 2009–10 biennial budget bill, for taxable years beginning after December 31, 2010, an individual; an individual partner or member of a partnership, limited liability company, or limited liability partnership; or an individual shareholder of a tax–option corporation (claimant) may elect to defer the payment of income taxes on up to $10,000,000 of the gain realized from the sale of any capital asset held more than one year (original asset) that is treated as a long–term gain under the Internal Revenue Code (IRC), if the claimant completes a number of requirements.

This bill creates another income tax deferral under which a claimant may elect to defer the payment of income taxes on any amount of the gain realized from the sale of any capital asset held more than one year (original new asset) that is treated as a long–term gain under the IRC, if the claimant completes a number of requirements.

Current law requires that the claimant must place the gain from the original asset in a segregated account in a financial institution, must invest all of the proceeds in a qualified new business venture (QNBV) as certified by the Department of Commerce (Commerce), within 180 days after the sale of the original asset that generated the gain, and must notify DOR on a form prepared by DOR that the claimant is deferring the payment of income tax on the gain from the original asset because the proceeds have been reinvested. The amount of the investment must be equal to or greater than the gain generated by the sale of the original asset.

The requirements under the bill are the same as current law with regard to placing the original new asset in a segregated account in a financial institution and notifying DOR, but under the bill a claimant must invest all of the proceeds in a qualified Wisconsin business (QWB) as certified by the Wisconsin Economic Development Corporation (corporation), within 180 days after the sale of the original new asset that generated the gain, instead of in a QNBV.

Under current law, a business may be certified as a QNBV by Commerce if the business is engaged in developing a new product or business process, manufacturing, agriculture, or processing or assembling products and conducting research and development, except that Commerce may not certify a business engaged in certain activities, including real estate development, insurance, banking, lobbying, wholesale or retail sales, leisure, hospitality, transportation, or construction.

The corporation may certify a business if it determines that, in the taxable year ending immediately before the date of the business's application, at least 50 percent of the business's payroll is paid in Wisconsin and at least 50 percent of the value of the business's real and tangible personal property is used by the business in this state. The bill permits the corporation to adopt rules in consultation with DOR, and it requires the corporation to make a list of certified businesses available at the corporation's Web site.

Under the bill, a claimant may not claim the deferral under this bill if the claimant also claims the current law deferral or the capital gains exclusion for Wisconsin–sourced assets, as created in this bill.

***** ANALYSIS FROM –1283/4 *****

Under current law, there is an income tax exclusion for individuals for 30 percent of the net capital gains realized from the sale of assets held for at least one year, except a farm asset is subject to an exclusion for 60 percent of such gains.

Under this bill, and subject to some exceptions, for taxable years beginning after December 31, 2015, a claimant may subtract from federal adjusted gross income the lesser of the claimant's federal net capital gain as reported on the claimant's federal tax return if, in that year, the claimant had a qualifying gain, or the claimant's qualifying gain.

The bill defines "qualifying gain" as the gain realized by the sale of any asset that is purchased after December 31, 2010, held for at least five consecutive years, is a Wisconsin capital asset at the time of purchase and for at least two of the next four years, and treated as a long–term gain under federal law. A "Wisconsin capital asset" is real or tangible personal property that is located in this state and used in a Wisconsin business, or stock or other ownership interest in a Wisconsin business. Under the bill, a business may apply to the corporation for annual certification. The corporation may certify a business if it determines that, in the taxable year ending immediately before the date of the business's application, at least 50 percent of the business's payroll is paid in Wisconsin and at least 50 percent of the value of the business's real and tangible personal property is used by the business in this state. The bill permits the corporation to adopt rules in consultation with DOR, and it requires the corporation to make a list of certified businesses available at the corporation's Web site.

***** ANALYSIS FROM –1003/P4 *****

Under current law, for each taxable year that a corporation that is a member of a combined group has net business loss carry–forward from a taxable year beginning on or after January 1, 2009, the corporation may, after using such net business loss carry–forward to offset its own income for the taxable year, use the remaining net business loss carry–forward to offset the income of all other members of the combined group.

Under the bill, for each taxable year that a corporation that is a member of a combined group has net business loss carry–forward from a taxable year beginning prior to January 1, 2009, the corporation may, after using such net business loss carry–forward to offset its own income for the taxable year, use up to 5 percent of the remaining net business loss carry–forward to offset the income of all other members of the combined group.

***** ANALYSIS FROM –1051/P2 *****

Under current law, a taxpayer may elect to include in its combined group, for income and franchise tax reporting purposes, every corporation in its commonly controlled group, regardless of whether such corporations are engaged in the same unitary business of the taxpayer. If DOR determines that the election has the effect of tax avoidance, DOR must disregard the election's tax effect or disallow the election. Under the bill, DOR may not disallow such an election, or disregard its effect, regardless of whether DOR determines that the election has the effect of tax avoidance.

*** ANALYSIS FROM –1147/1 ***

Under federal law, the earned income tax credit (EITC) is a refundable tax credit for low–income workers. If the amount of the claim exceeds the worker's tax liability, the claimant receives a check for the excess amount from the Internal Revenue Service. The amount of the credit for which a claimant is eligible is based, in part, on whether the claimant has no qualifying children, one qualifying child, or more than one qualifying child.

Under current law, the refundable Wisconsin EITC may be claimed in an amount equal to a certain percentage of the federal basic EITC. To be eligible for the Wisconsin EITC, an individual must have one or more qualifying children. The Wisconsin EITC is equal to 4 percent of the federal credit if the claimant has one qualifying child, 14 percent of the federal credit if the claimant has two qualifying children, and 43 percent of the federal credit if the claimant has three or more qualifying children.

This bill changes the percentages of the federal credit that may be claimed under Wisconsin law. Under this bill, for taxable years starting after December 31, 2010, the Wisconsin EITC is equal to 5 percent of the federal credit if the claimant has one qualifying child, 8 percent of the federal credit if the claimant has two qualifying children, and 40 percent of the federal credit if the claimant has three or more qualifying children.

*** ANALYSIS FROM –1260/P4 ***

The bill adopts, for state income and franchise tax purposes, recent changes made to the federal IRC related to tax credit bonds, allowing Roth individual retirement accounts in certain retirement plans, annuity contracts, and long–term care annuities.

*** ANALYSIS FROM –0167/P1 ***

Under current law, for calendar years beginning after December 31, 2007, a person who claims an early stage seed or angel investment income and franchise tax credit must pay back the amount of the credit, if the person holds the investment for which the credit relates for less than three years. The bill makes clear that investments made after December 31, 2007, must be held for at least three years in order for the investor to receive and keep the amount of the credit.

*** ANALYSIS FROM –0169/P3 ***

Under current law, an investment in a qualified new business venture may be claimed as an angel investment income and franchise tax credit if the investment is made by certain persons, including partnerships and liability companies that are nonoperating entities, as determined by Commerce. The bill clarifies that, under current law, a tax–option corporation that is a nonoperating entity, as determined by Commerce, may also make investments that may be claimed as angel investment credits.

*** ANALYSIS FROM –0687/P1 ***

Under current law, the interest income from bonds issued by WHEFA is exempt from income taxation if the bond proceeds are used by a health facility to acquire information technology hardware or software. Under the bill, the interest income from bonds issued by WHEFA is also exempt from income taxation if the bonds are issued to a person who is eligible to receive bonds from another issuer for the same purpose and the interest income received from the other bonds is exempt from taxation.

***** ANALYSIS FROM –0735/P1 *****

The bill changes the appropriation for the jobs tax credit from an annual appropriation to a continuing appropriation.

***** ANALYSIS FROM –0738/P1 *****

The bill changes the annual appropriation for the dairy manufacturing facility investment tax credit to a continuing appropriation.

***** ANALYSIS FROM –0711/P4 *****

OTHER TAXATION

Under the bill, a percentage of the sales and use tax collected on the sale or use of motor vehicle parts and accessories is deposited into the transportation fund.

***** ANALYSIS FROM –1218/P1 *****

Under current law, certain aircraft, motor vehicles, and truck bodies that are sold in this state, but used outside this state, are exempt from state and local sales and use taxes. The bill exempts from state and local sales and use taxes modular and manufactured homes that are sold in this state, but used outside this state.

***** ANALYSIS FROM –1219/P2 *****

The bill exempts from state and local sales and use taxes vegetable oil or animal fat that is converted into motor vehicle fuel that is exempt from motor vehicle fuel taxes because it is used by an individual in his or her personal motor vehicle.

***** ANALYSIS FROM –1220/P1 *****

Under current law, generally, a railroad company pays public utility taxes based on the value of its property in this state, rather than general local property taxes. All such taxes paid by railroad companies are annually distributed to the towns, villages, and cities in which railroad company property is located. The bill provides that, beginning in 2011, the amount of such taxes distributed to each town, village, or city is no less than the amount distributed to each town, village, or city in 2010.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2011 DRAFTING REQUEST

Bill

Received: **02/22/2011**

Wanted: **As time permits**

For: **Legislative Reference Bureau**

May Contact:
Subject: **State Govt - miscellaneous**

Received By: **chanaman**

Companion to LRB:

By/Representing:

Drafter: **chanaman**

Addl. Drafters:

Extra Copies:

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Analysis compile for tax

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/P1	chanaman	/P1 2/23 jld	2-23 ph	_______ _______			

FE Sent For:

<END>

11-0838/P1	In	yes	1/27/11	BB0184	tkuczens	Hynek	Education - MPS	MPCP - expand program to permit MPS students to attend private schools in Milwaukee County
11-0839/P1	In	yes	1/4/11	BB0185	tkuczens	Hynek	Education - MPS	MPCP - replace requirement that MPCP schools administer WKCE with nationally normed standardized test
11-0841/P2	In	yes	1/14/11	BB0191	tkuczens	Hynek	Education - school boards	Repeal requirement that schools provide 180 days of instruction
11-0844/P1	In	yes	1/5/11	BB0194	tkuczens	Hynek	Education - school finance	Repeal revenue limit exemptions for school safety, school nurses, pupil transportation
11-1061/P1	In	yes	1/24/11	BB0214	tkuczens	hynek	Education - state superintendent, Education - miscellaneous	Educator Improvement Grants
11-1183/P1	In	yes	2/7/11	BB0253	tkuczens	hanle	Education - school boards	Indoor environmental quality
11-1184/P1	In	yes	1/27/11	BB0254	tkuczens	hanle	Education - state superintendent	School nurses
11-1192/P2	In	yes	2/9/11	BB0256	tkuczens	hanle	Education - state superintendent	Reading initiative
11-1215/P2	In	yes	2/14/11	BB0275	tkuczens	Hanle	Education - school boards	SAGE grade limit
11-1242/P1	In	yes	2/7/11	BB0284	tkuczens	hanle	Education - school finance	Transportation payments to parents
11-1243/P1	In	yes	2/3/11	BB0285	tkuczens	Hanle	Education - school boards	Property tax levy certification date
11-1244/P1	In	yes	2/7/11	BB0286	tkuczens	hanle	Education - MPS	Teaching days in MPS
11-1245/P1	In	yes	2/7/11	BB0287	tkuczens	hanle	Education - miscellaneous	Training to administer drugs
11-1246/P1	In	yes	2/3/11	BB0289	tkuczens	Hanle	Education - MPS	MPCP - going concerns
11-1247/P1	In	yes	2/4/11	BB0290	tkuczens	Hanle	Education - MPS	MPCP - notice of administrative changes
11-1345/P4	In	yes	2/15/11	BB0309	tkuczens	hanle	Education - MPS	MPCP - pupil eligibility
11-1348/P2	In	yes	2/14/11	BB0317	tkuczens	frederick	Public Util. - telco	Program audit of Universal Service Fund programs
11-0227/P2	out		10/26/10	BB0080	tkuczens	Hynek	Education - miscellaneous	Driver education aid for low-income pupils

-:520 (MESD)

JKR ✓

jld

TAXATION

Income Taxation

1) -1357 Reduce indivi income tax rates

2) -1148 Repeal indexing for homestead tax cr.

3) -1409 cap. gains deferral - WI bus.

4) -1283 cap. gains exclusion - WI investments

✓1003

✓1051

~~5)~~ -1147 change EITC %s

✓1260

✓0167

✓0169

✓0687

✓0735

✓0738

INS JK

JK jld

TAXATION

INCOME

1003

1051

1260

0167

0169

0170

0687

0735

0738

(WILL NEED TO MERGE THIS LIST w/ ONE FROM MES)

INSERT JK

OTHER

0711

1218

1219

1220

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

AN ACT ...; **relating to:** relating to:phasing in a reduction of individual income tax rates and eliminating the top bracket; relating to:repealing indexing provisions under the homestead tax credit; relating to:creating an individual income tax deferral for certain long-term capital gains that are reinvested in a qualified Wisconsin business; relating to:creating a procedure for certain taxpayers to exclude from income certain capital gains from the sale of Wisconsin-sourced assets; relating to:the budget; relating to:the budget; relating to:changing the percentages of the federal credit that may be claimed under the earned income tax credit; relating to:the budget; relating to:the budget; relating to:the budget; relating to:the budget; relating to:the budget; relating to:the budget; relating to:the budget; relating to:the budget; relating to:the budget; relating to:the budget

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Analysis by the Legislative Reference Bureau

***** ANALYSIS FROM -1357/2 *****

TAXATION

INCOME TAXATION

(tax filers)

Under current law, there are five income tax brackets for single individuals, certain fiduciaries, heads of households, and married persons. The brackets are indexed for inflation. The rate of taxation under current law for the lowest bracket for ~~single individuals, certain fiduciaries, heads of households, and married persons~~ is 4.6 percent of taxable income; the rate for the second bracket is 6.15 percent; the rate for the third bracket is 6.5 percent; the rate for the fourth bracket is 6.75 percent; and the rate for the highest bracket, which was created in the 2009-11 biennial budget act, 2009 Wisconsin Act 28, is 7.75 percent.

tax filers

With regard to taxable year 2010, for single individuals, certain fiduciaries, and heads of households, for example, the lowest bracket applies to taxable income of over $0 up to $10,070; the second bracket applies to taxable income over $10,070 up to $20,130; the third bracket applies to taxable income over $20,130 up to $151,000; the fourth bracket applies to taxable income over $151,000 up to $221,660; and the fifth, or top, bracket applies to taxable income over $221,660.

INS. NES per cent

For taxable years beginning on January 1, 2012, this bill eliminates the fifth bracket. For taxable year 2012, with regard to single individuals, certain fiduciaries, and heads of households, for example, the fourth, or top, bracket of 6.75 percent will apply to taxable income over approximately $151,000, as indexed for inflation. Also under the bill, beginning in taxable year 2013, the rates of taxation are reduced over a five-year period. The total rate reduction in each bracket is approximately 2.5 percent at the end of the five-year phase in period.

Under the bill, the tax rate in the lowest bracket is reduced from 4.60 percent in 2012 to 4.58 percent in 2013; 4.56 percent in 2014; 4.54 percent in 2015; 4.52 percent in 2016; and 4.50 percent in 2017 and beyond. The rate in the fourth, or top, bracket is reduced from 6.75 percent in 2012 to 6.72 percent in 2013; 6.69 percent in 2014; 6.66 percent in 2015; 6.63 percent in 2016; and 6.60 percent in 2017 and beyond. The brackets will continue to be indexed for inflation as is the case under current law.

***** ANALYSIS FROM -1148/1 *****

TAXATION

INCOME TAXATION

Under current law, for claims filed in 2011, based on property taxes or rent constituting property taxes from the prior year, the homestead tax credit threshold income is $8,060, the maximum property taxes, or rent constituting property taxes, that a claimant may use in calculating his or her credit are $1,460, and the maximum household income is $24,680. Under the current law formula, as a claimant's income exceeds $8,060, the credit is phased out until the credit equals zero when income exceeds $24,680. Also under the formula, if the household income is $8,060 or less, the credit is 80 percent of the property taxes accrued or rent constituting property taxes accrued. Using the formula, the credit that may be claimed ranges from $10 to $1,168. Also under current law, for claims filed in 2011 and thereafter, the supplement from general purpose revenue which currently ensures that all eligible candidates for the office of justice of the supreme court receive the full amounts of the grants to which they are entitled. Under the bill, if there are insufficient moneys available to make payment of the full amounts of grants to which eligible candidates for the office of justice of the supreme court are entitled, the amounts of the grants are prorated to adjust for the deficiency. The bill also deletes the supplemental grants that are currently may become payable to eligible candidates for the office of justice of the supreme court. The bill permits candidates for the office of justice of the supreme court who accept grants to also accept additional private contributions in an amount sufficient to cover any deficiency in the public grants to which they would otherwise be entitled. The bill applies to grants awarded after December 31, 2011. Currently, the democracy trust fund is administered by the state treasurer. This bill transfers administration of the fund to the Government Accountability Board.

TAXATION

INS. MES

INCOME TAXATION

Currently, an individual filing an individual income tax return who has a tax liability or who is entitled to a tax refund may designate $3 for the Wisconsin election campaign fund and the democracy trust fund. If the designation is made, $2 of general purpose revenue is allocated to the democracy trust fund, which is used to finance the campaigns of eligible candidates for the office of justice of the supreme court and $1 of general purpose revenue is allocated to the Wisconsin election campaign fund, which is used to finance the campaigns of eligible candidates for certain other state offices specified by law. A designation does not affect the amount of the tax liability of, or the amount of any refund payable to, the individual making the designation.

This bill provides that any designation of $3 for the Wisconsin election campaign fund and the democracy trust fund made by an individual is added to the individual's tax liability or deducted from the individual's refund otherwise payable. The bill applies to designations made after December 31, 2011.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 11.26 (9) (a) and (b) of the statutes are amended to read:

11.26 **(9)** (a) Except as provided in par. (ba), no individual who is a candidate for state or local office may receive and accept more than 65 percent of the value of the total disbursement level determined under s. 11.31 or 11.511 (7) ~~(a)~~ for the office maximum household income, maximum property taxes, and maximum household income are all indexed for inflation.

Under this bill, the indexing provisions are repealed and, for claims filed in 2011 and thereafter, the threshold income is $8,060, the maximum property taxes, or rent constituting property taxes, that a claimant may use in calculating his or her credit are $1,460, and the maximum household income is $24,680.

***** ANALYSIS FROM -1409/P2 *****

~~**TAXATION**~~

~~**INCOME TAXATION**~~

Under current law, as created in the 2009-10 biennial budget bill, for taxable years beginning after December 31, 2010, an individual; an individual partner or member of a partnership, limited liability company, or limited liability partnership; or an individual shareholder of a tax-option corporation (claimant) may elect to defer the payment of income taxes on up to $10,000,000 of the gain realized from the sale of any capital asset held more than one year (original asset) that is treated as a long-term gain under the Internal Revenue Code, if the claimant completes a number of requirements. (IRC)

This bill creates another income tax deferral under which a claimant may elect to defer the payment of income taxes on any amount of the gain realized from the sale of any capital asset held more than one year (original new asset) that is treated as a long-term gain under the ~~Internal Revenue Code~~, if the claimant completes a number of requirements.

~~the Department of Revenue~~

Current law requires that the claimant must place the gain from the original asset in a segregated account in a financial institution, must invest all of the proceeds in a qualified new business venture (QNBV) as certified by the Department of Commerce (Commerce), within 180 days after the sale of the original asset that generated the gain, and must notify DOR on a form prepared by DOR that the claimant is deferring the payment of income tax on the gain from the original asset because the proceeds have been reinvested. ~~The claimant must send the form to DOR with the claimant's income tax return for the year to which the claim relates.~~ The amount of the investment must be equal to or greater than the gain generated by the sale of the original asset.

The requirements under the bill are the same as current law with regard to placing the original new asset in a segregated account in a financial institution and notifying DOR, but under the bill a claimant must invest all of the proceeds in a qualified Wisconsin business (QWB) as certified by the Wisconsin Economic Development Corporation (corporation), within 180 days after the sale of the original new asset that generated the gain, instead of in a QNBV.

Under current law, a business may be certified as a QNBV by Commerce if the business is engaged in developing a new product or business process, manufacturing, agriculture, or processing or assembling products and conducting research and development, except that Commerce may not certify a business engaged in certain activities, including real estate development, insurance, banking, lobbying, wholesale or retail sales, leisure, hospitality, transportation, or construction.

The corporation may certify a business if it determines that, in the taxable year ending immediately before the date of the business's application, at least 50 percent of the business's payroll is paid in Wisconsin and at least 50 percent of the value of the business's real and tangible personal property is used by the business in this state. The bill permits the corporation to adopt rules in consultation with DOR, and it requires the corporation to make a list of certified businesses available at the corporation's Web site.

Under the bill, a claimant may not claim the deferral under this bill if the claimant also claims the current law deferral or the capital gains exclusion for Wisconsin-sourced assets, as created in this bill.

***** ANALYSIS FROM -1283/4 *****

~~TAXATION~~

~~INCOME TAXATION~~

Under current law, there is an income tax exclusion for individuals for 30 percent of the net capital gains realized from the sale of assets held for at least one year, except a farm asset is subject to an exclusion for 60 percent of such gains.

Under this bill, and subject to some exceptions, for taxable years beginning after December 31, 2015, ~~an individual, an individual partner or member of a partnership, limited liability company, or limited liability partnership, or an individual shareholder of a tax-option corporation~~ (claimant) may subtract from federal adjusted gross income the lesser of the claimant's federal net capital gain as reported on the claimant's federal tax return if, in that year, the claimant had a qualifying gain, or the claimant's qualifying gain.

The bill defines "qualifying gain" as the gain realized by the sale of any asset that is purchased after December 31, 2010, held for at least five consecutive years, is a Wisconsin capital asset at the time of purchase and for at least two of the next four years, and treated as a long-term gain under federal law. A "Wisconsin capital asset" is real or tangible personal property that is located in this state and used in a Wisconsin business, or stock or other ownership interest in a Wisconsin business. Under the bill, a business may apply to the Wisconsin Economic Development Corporation (corporation) for annual certification. The corporation may certify a business if it determines that, in the taxable year ending immediately before the date of the business's application, at least 50 percent of the business's payroll is paid in Wisconsin and at least 50 percent of the value of the business's real and tangible personal property is used by the business in this state. The bill permits the corporation to adopt rules in consultation with DOR, and it requires the corporation to make a list of certified businesses available at the corporation's Web site.

***** ANALYSIS FROM -1003/P4 *****

~~TAXATION~~

~~INCOME TAXATION~~

Under current law, for each taxable year that a corporation that is a member of a combined group has net business loss carry-forward from a taxable year beginning on or after January 1, 2009, the corporation may, after using such net business loss carry-forward to offset its own income for the taxable year, use the remaining net business loss carry-forward to offset the income of all other members of the combined group.

the

Under this bill, for each taxable year that a corporation that is a member of a combined group has net business loss carry-forward from a taxable year beginning prior to January 1, 2009, the corporation may, after using such net business loss carry-forward to offset its own income for the taxable year, use up to 5 percent of the remaining net business loss carry-forward to offset the income of all other members of the combined group.

***** ANALYSIS FROM -1051/P2 *****

~~TAXATION~~

~~INCOME TAXATION~~

Under current law, a taxpayer may elect to include in its combined group, for income and franchise tax reporting purposes, every corporation in its commonly controlled group, regardless of whether such corporations are engaged in the same unitary business of the taxpayer. If DOR determines that the election has the effect of tax avoidance, DOR must disregard the election's tax effect or disallow the election. Under this bill, DOR may not disallow such an election, or disregard its effect, regardless of whether DOR determines that the election has the effect of tax avoidance.

the

***** ANALYSIS FROM -1147/1 *****

~~TAXATION~~

~~INCOME TAXATION~~

Under federal law, the earned income tax credit (EITC) is a refundable tax credit for low-income workers. If the amount of the claim exceeds the worker's tax liability, the claimant receives a check for the excess amount from the Internal Revenue Service. The amount of the credit for which a claimant is eligible is based, in part, on whether the claimant has no qualifying children, one qualifying child, or more than one qualifying child.

Under current law, the refundable Wisconsin EITC may be claimed in an amount equal to a certain percentage of the federal basic EITC. To be eligible for the Wisconsin EITC, an individual must have one or more qualifying children. The Wisconsin EITC is equal to 4 percent of the federal credit if the claimant has one qualifying child, 14 percent of the federal credit if the claimant has two qualifying children, and 43 percent of the federal credit if the claimant has three or more qualifying children.

This bill changes the percentages of the federal credit that may be claimed under Wisconsin law. Under this bill, for taxable years starting after December 31, 2010, the Wisconsin EITC is equal to 5 percent of the federal credit if the claimant has one qualifying child, 8 percent of the federal credit if the claimant has two qualifying children, and 40 percent of the federal credit if the claimant has three or more qualifying children.

***** ANALYSIS FROM -1260/P4 *****

IRC e

~~TAXATION~~

~~INCOME TAXATION~~

The

~~This~~ bill adopts, for state income and franchise tax purposes, recent changes made to the federal Internal Revenue Code related to tax credit bonds, allowing Roth individual retirement accounts in certain retirement plans, annuity contracts, and long-term care annuities.

***** ANALYSIS FROM -0167/P1 *****

~~TAXATION~~ e

~~INCOME TAXATION~~

The

Under current law, for calendar years beginning after December 31, 2007, a person who claims an early stage seed or angel investment income and franchise tax credit must pay back the amount of the credit, if the person holds the investment for which the credit relates for less than three years. ~~This~~ bill makes clear that investments made after December 31, 2007, must be held for at least three years in order for the investor to receive and keep the amount of the credit.

***** ANALYSIS FROM -0169/P3 *****

~~TAXATION~~ e

~~INCOME TAXATION~~

The

Under current law, an investment in a qualified new business venture may be claimed as an angel investment income and franchise tax credit if the investment is made by certain persons, including partnerships and liability companies that are nonoperating entities, as determined by ~~the Department of Commerce (~~Commerce~~)~~. ~~This~~ bill clarifies that, under current law, a tax-option corporation that is a nonoperating entity, as determined by Commerce, may also make investments that may be claimed as angel investment credits.

***** ANALYSIS FROM -0687/P1 *****

~~TAXATION~~ e

~~INCOME TAXATION~~

the

Under current law, the interest income from bonds issued by WHEFA is exempt from income taxation if the bond proceeds are used by a health facility to acquire information technology hardware or software. Under ~~this~~ bill, the interest income from bonds issued by WHEFA is also exempt from income taxation if the bonds are issued to a person who is eligible to receive bonds from another issuer for the same purpose and the interest income received from the other bonds is exempt from taxation.

***** ANALYSIS FROM -0735/P1 *****

~~TAXATION~~ e

~~INCOME TAXATION~~

The

~~This~~ bill changes the appropriation for the jobs tax credit from an annual appropriation to a continuing appropriation.

***** ANALYSIS FROM -0738/P1 *****

~~TAXATION~~

~~INCOME TAXATION~~

The ~~This~~ bill changes the annual appropriation for the dairy manufacturing facility investment tax credit to a continuing appropriation.

***** ANALYSIS FROM -0711/P4 *****

~~TAXATION~~

STET — ~~OTHER TAXATION~~ — STET, NOT deleted

Under the ~~this~~ bill, a percentage of the sales and use tax collected on the sale or use of motor vehicle parts and accessories is deposited into the transportation fund.

***** ANALYSIS FROM -1218/P1 *****

~~TAXATION~~

~~OTHER TAXATION~~

Under current law, certain aircraft, motor vehicles, and truck bodies that are sold in this state, but used outside this state, are exempt from state and local sales and use taxes. The ~~This~~ bill exempts from state and local sales and use taxes modular and manufactured homes that are sold in this state, but used outside this state.

***** ANALYSIS FROM -1219/P2 *****

~~TAXATION~~

~~OTHER TAXATION~~

The ~~This~~ bill exempts from state and local sales and use taxes vegetable oil or animal fat that is converted into motor vehicle fuel that is exempt from motor vehicle fuel taxes because it is used by an individual in his or her personal motor vehicle.

***** ANALYSIS FROM -1220/P1 *****

~~TAXATION~~

~~OTHER TAXATION~~

Under current law, generally, a railroad company pays public utility taxes based on the value of its property in this state, rather than general local property taxes. All such taxes paid by railroad companies are annually distributed to the towns, villages, and cities in which railroad company property is located. The ~~This~~ bill provides that, beginning in 2011, the amount of such taxes distributed to each town, village, or city is no less than the amount distributed to each town, village, or city in 2010.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows: